

THE IMPACT OF E.O. 12065 ON THE CIA AND ITS INTELLIGENCE ACTIVITIES

1. Introduction

E.O. 12065 places on the various government agencies, including CIA and other members of the Intelligence Community, several new requirements affecting both classification and declassification of national security information.

2. Classification Requirements - closer focus on what information needs protection

The classification requirements of the Order are not causing major problems, and indeed have caused us to focus more closely on just what information needs to be protected in the interest of national security.

3. Two Step Determination for Classification

This closer focus flows naturally from the Order's two step test to determine classification, that is information to be classified must fall within one of seven classification criteria and a determination made that its unauthorized disclosure could cause identifiable damage to the national security.

4. Classification Guides & Derivative Classification

The use of classification guides, as provided in the Order, is a new approach for the Agency and one that is beneficial in promoting uniformity in classification level and duration. The guides, which are approved by an original top secret classifying authority, enable employees without top secret classification authority to apply consistently the requisite classification level, duration, and justification. Employees using the guides are derivative classifiers, as are those who use previously classified information in a new context and carry forward the information's original classification. Derivative classifiers are identified on the documents they classify to assure accountability for classification decisions.

5. Refinement of Guides & Portion Marking

As we further refine our guides, emphasis is being placed on the lowest level and duration of classification necessary to protect each subcategory of information. The provision of the Order making portion marking mandatory is also an aid in making thoughtful classification decisions and will facilitate the classification review of permanent records in the future. The Order provides that the DISCO may, for good cause, grant and revoke waivers of the portion marking requirement for specified classes of documents or information. Flexibility is thus provided for those few cases in which a waiver is needed.

6. Positive Results of the Order's Classification Provisions

Overall the Order's classification provisions enable CIA to protect national security information, particularly intelligence sources and methods, which needs protection. It has pushed us away from classification by rote and toward classifications by informed judgement. In addition, under terms of the Order, classification may not be used to limit dissemination, delay release to the public of information that does not merit classification, nor conceal violations of law. In summary, CIA fully supports the classification provisions of the Order and views them as a positive development.

7. CIA & Openness in Government

The declassification requirements of E.O. 12065 are a step to more openness in government which CIA supports. It is the policy of the DCI to inform the public on CIA's unclassified activities and to declassify and release to the public as much of the Agency's substantive product as possible without risking the disclosure of sensitive intelligence sources and methods. Recently approximately 150 finished intelligence reports have been declassified per year and have been made available to the public through the Library of Congress. We have moved from the former "no comment" response and now routinely provide unclassified information in response to media inquiries. We are conducting a dialogue with American academic specialists, and increasingly analytical personnel participate in the presentation of unclassified professional papers.

8. Contradiction Between Openness & Traditional Secrecy of an Intelligence Organization

Although CIA supports a policy of openness, it should be emphasized that an intelligence organization deals in secrets - its business and its activities are secret - and have been since man first engaged in intelligence activities. It is generally known that intelligence organizations exist, but their organization, functions, names, official titles, salaries, and numbers of personnel are secret. The U.S. Government is unique among the nations of the world in providing for, and in some instances demanding, that intelligence information concerning the functioning of its intelligence agencies be made public.

9. E.O. 12065 as a Public Disclosure Statute

E.O. 12065 like the FOIA which it compliments, is a definite departure from the secrecy traditional to intelligence operations at a time when the protection of national security information is basic to our survival. Although E.O. 12065 recognizes the need to protect information which meets classification requirements, it also states that in some cases the need to protect such information may be outweighed by the public interest in disclosure of the information, and in these cases the information should be declassified.

10. Impact of Public Disclosure Statutes on CIA

Disclosure provisions, whether FOIA or E.O. 12065, make it more difficult for our case officers to convince sources of foreign intelligence at home and abroad that we can ensure that information they furnish will not find its way into a U.S. newspaper or magazine. Our assurances of secrecy and proper safeguarding matter not if those who would enter into a confidential arrangement perceive that information supplied by them will not be held in confidence. It is undeniable that within E.O. 12065 there exists a sufficient basis to protect our most vital information. Unfortunately, the release of any kind of intelligence information, or even the prospect of release, in the present climate creates a situation difficult for friendly governments to comprehend and has a dampening effect on their willingness to share information with us.

11. The Burden of Systematic Review for Declassification

Two of the declassification requirements of E.O. 12065 taken together constitute an overwhelming, if not unrealistic, task for CIA. These requirements are that permanent records must be reviewed for declassification at age 20 rather than 30, and that systematic review for declassification be implemented as rapidly as practicable and completed by 1 December 1988. As pointed out by my colleague who addressed last year's seminar, if CIA's classified documents from 1947 until 1951 were stacked next to the Washington Monument and equal in height, the result would be seven stacks. Considering that the volume of records then tripled in the early 50's, an almost incomprehensible quantity of records have had to be screened.

Task Forces were organized on a component basis to review their record holdings and divide them into permanent and temporary records in accordance with Records Control Schedules approved by the National Archives and Records Service. This screening is now largely completed. An estimated 22,500 cubic feet of permanent records or 45,000,000 pages at 2,000 pages per cubic foot have been identified for systematic review for declassification on an item by item basis in the next 10 years. Every effort will be made, in coordination with the National Archives and Records Service, to reduce through reappraisal the number of records now considered permanent and thereby subject to classification review. However, even with some reduction, CIA's Classification Review Group as now constituted (39 full-time staff personnel) can only scratch the surface.

12. Increased Mandatory Review Requests

The Order also impacts upon CIA in an increased number of mandatory review requests. This increase is thought to stem from the Order's provision providing for possible release of more recent information. Paperwork has also increased in that CIA must now deal directly with requestors rather than through the National Archives and Records Service and must also perform inter-U.S. government coordination as necessary.

13. Potential for Compromise of National Security Information in Systematic Review for Declassification

The classification review of complex classified material covering many subjects and areas of the world creates a high potential for compromise of national security information. The methods by which the information is acquired, particularly if derived from sensitive sources or in conjunction with foreign governments, must be considered. The information, particularly if only 20 years old, may involve projects or undertakings still in existence. The cumulative disclosure effect of declassifying and releasing individual items of information on a single subject must be weighed. In summary, a fine line must be drawn in balancing, as required in the Order, the public's interest in access to Government information with the need to protect certain national security information from disclosure.

14. The Need for Experienced Intelligence Officers to Perform Classification Review

Classification review demands intelligence officers with extensive experience and knowledge of world affairs as well as of Agency missions, functions, and activities. Intelligence officers reviewing documents 20 years of age or older must be able to evaluate them in the light of today's operational and foreign affairs environment. For example, we recently reviewed a document concerning contingency planning in a geographic area of vital concern. Except for the document date (1951) the reader would think the information concerned the current situation. Disclosure of the information would adversely affect U.S. foreign relations and cause serious damage to the national security. Independent judgements must be made on the substantive content of permanent records reviewed - judgements in which intelligence officer reviewers act as agents of the DCI in the discharge of his responsibility to protect national security information and particularly intelligence sources and methods.

15. The Aggregate Effect of Releasing Individually Declassifiable Items of Information

Particular care must be taken to ensure that sets or series of individually declassifiable documents would not, in the aggregate reveal intelligence sources or methods, or indicate the scope and nature of covert Agency activities, if the entire collection or a substantial portion of it were declassified and released. For example, a 20 year old report on the travel of a known Soviet agent within a country may by itself be declassifiable. However, a series of such reports would reveal that the information could only have been obtained through the cooperation of the country's government or a penetration of that government.

16. Concluding Example of the Potential for Compromise in Systematic Review

Recently we were asked to review for declassification a historical document over 50 years old on a major communist party. We agreed to the review with alacrity - obviously a piece of cake. However, it turned out to be a unique document, readily identifiable to the communist party and to the country's security service which obtained it in a raid on party headquarters. The document was made available to CIA in the early 50's by an official of the country's security service. The source is still active. Declassification and release of the document could become an issue in the internal politics of the country concerned, adversely affect a CIA liaison arrangement, and place a source in jeopardy.

TRANSMITTAL SLIP		DATE
TO: Branch Chiefs		
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REMARKS: <p>Outline of speech prepared for AI/DDA to address the National Classification Management Society at its 15th seminar in San Francisco, CA, 15-17 May.</p>		
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